UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/849,076	05/03/2001	Stephen E. Gold	18509-14 US	8144

25734 7590 01/31/2006	EXAMINER
FOLEY & LARDNER LLP ONE MARITIME PLAZA SIXTH FLOOR SAN FRANCISCO, CA 94111	NELSON, FREDA ANN

ART UNIT	PAPER NUMBER
3639	

DATE MAILED: 01/31/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on <u>09 November 2005</u>.

2a)☒ This action is **FINAL**.   2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) <u>1,4-7,10,12-16,19-23 and 26-29</u> is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) <u>1,4-7,10,12-16,19-23 and 26-29</u> is/are rejected.

7)☒ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on <u>03 May 2001</u> is/are: a)☒ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All   b)☐ Some * c)☐ None of:

        1.☐ Certified copies of the priority documents have been received.

        2.☐ Certified copies of the priority documents have been received in Application No. _____.

        3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☒ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.

4)☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .

5)☐ Notice of Informal Patent Application (PTO-152)

6)☐ Other: _____.

DETAILED ACTION

The amendment received on November 9, 2005 is acknowledged and entered.

Claims 1, 4-5, 7, 10, 12-16, 19-23, and 26-28 have been amended. Claims 2-3, 8-9, 11,

17-18, and 24-25 are canceled. No claims have been added. Claims 1, 4-7, 10, 12-16,

19-23, and 26-29 are currently pending.

Response to Amendment and Arguments

1. Applicant's arguments with respect to claims 1, 4-7, 10, 12-16, 19-23, and 26-29

have been considered but are moot in view of the new ground(s) of rejection.

Rejections - 35 USC § 101

2. The rejection under 35 USC 101 is withdrawn in view of the decision of the Board

of Appeals in Exparte Lundgren (Attorney Docket No. 039017-0201).

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly
claiming the subject matter which the applicant regards as his invention.

Claim 28 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite

for failing to particularly point out and distinctly claim the subject matter which applicant

regards as the invention.

Claim 28 is incomplete.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

3.   Claims 1, 4-5, 7,12-14, 16, 19-20, 22-23, 26-27, and 29 are rejected under 35

U.S.C. 103(a) as being unpatentable over Reuhl et al. (Patent Number 5,873,069), in

view of Peterson et al. (Patent Number 6,324,522).

As for claims 1 and 13, Reuhl et al. disclose a method for providing automated delivery of a response to a pricing inquiry comprising the steps of:
receiving an inquiry requesting a price of an item (col. 3, lines 5-11) {an automated system and apparatus which provides a buyer at the point of sale with price comparisons among competitors to ascertain the best price available for a product or a substantially similar product};
modifying the initial price based on application of various predetermined rules (col. 4, lines 7-12) {the system receives competitor price data for items, compares the competitors' prices with the active price, and automatically changes the active price in accordance with certain rules depending on whether the competitor's price is an advertised price, a nonadvertised price or a value-added price};
determining whether or not the modified price is to be compared to a target price (col. 11, lines 34-43); and
providing a price quote that reflects a weighted price, the weighted price being either the modified price or the target price (col. 11, lines 34-43) {the pricing program 204, in general operation, selects the current active price of the product, compares it with the lowest competitor's price in a specified market, calculates a new user's price to be lower than the competitor's price, changes the ending cent in accordance with a cent code that corresponds to market type, i.e., profit margin of the product, compares the cent coded price with the competitor's price, calculates a new active user price to be lower than or equal to the competitor's price, stores the new active user price in the ITEM PRICE table}.
Reuhl et al. do not disclose if the inquiry is governed by a contract, determining an initial price for the item in accordance with the contract; if the inquiry is governed by a market price program, determining an initial price for the item in accordance with the

market price program; if the inquiry is for a requote, determining an initial price for the
item equal to a previously quoted price; and if the inquiry is not governed by a contract
or a market price program and is not for a requote, determining an initial price from a
reference price table.

Peterson et al. disclose the price is preferably calculated based on a table
uploaded to the information network by the vendor wherein the table includes a list of
the customer ID's for the users authorized to conduct electronic commerce with the
vendor, and a discount percentage associated with each customer ID for each product
code; this enables the vendor to quote different prices to different customers, with the
appropriate discounted price being displayed to the user based on the user's user ID
given at log-on; and if no discount percentage is given, the displayed price will be list
price (col. 24, lines 9-20). Therefore, it would have been obvious to one of ordinary skill
in the art at the time the invention was made to modify the invention of Reuhl et al. to
include the feature of Petersen et al. in order to provide price quotes to a variety of
customer types.

As for claims 4 and 12, Reuhl et al. disclose a method for providing automated
delivery of a response to a pricing inquiry as recited in claim 1, wherein said various
predetermined rules include at least one of a set of business rules, a set of value added
services rules, and a set or price channel conversion rules (col. 4, lines 7-12) {the
system receives competitor price data for items, compares the competitors' prices with
the active price, and automatically changes the active price in accordance with certain
rules depending on whether the competitor's price is an advertised price, a
nonadvertised price or a value-added price}.

As for claim 5, Reuhl et al. disclose a method for providing automated delivery of
a response to a pricing inquiry as recited in claim 4, wherein said set of business rules
is comprised of filter criteria that include at least one of customer identifier, customer
category, customer classification, geography, sales channel, contract, competition,
target pricing, quantity, date, delivery schedule, part identifier, product type, product
family, and value added requirements (col. 6, lines29-44) {the pricing response is
directed to having the lowest price for any particular product based on price
comparisons on the same or a substantially similar product sold by competitors in a
specific geographic market and the number of markets that can be accommodated by
the system of the present invention is not limited; and there are five different geographic
markets, however, the system is suitably an enterprise-wide (i.e., a multi-market, multi-
facility, e.g., store) system and price changes are directed on a market-by-market
basis}.

As for claim 7, Reuhl et al. disclose a method for providing automated delivery of
a response to a pricing inquiry, wherein the weighted price is one of a highest price,
lowest price, and an initially quoted price (col. 11, lines 21-24) {the buyer has the
opportunity to view the displayed results which demonstrate that the system user has
the lowest price in the market for the product of interest, i.e., the system user's price is

lower or equal to the lowest competitor's price}.

As for claim 14, Reuhl et al. disclose a method for providing automated delivery
of a response to a pricing inquiry as recited in claim' 1 2, wherein the plurality of value
added services charges are dependent upon services including at least one of special
handling services, packaging services, and programming services (col. 3, lines 61-66;
col. 3 line 66 through col. 4, line 6) {the database of the system includes indicia for each
item sold, including a product identification number, e.g., a stock keeping unit or SKU,
the market in which it is sold, the price, value added characteristics, e.g., special
financing arrangements (special handling) or premiums offered, and market type which
relates to profit margin; and the pricing software defines an active price (i.e., the real-
time current valid price) for every item; the active price is a function of a regular price
(i.e., cost plus usual system user's markup), an advertised price (if the item is an
advertised special), a sale price (if the item is a sale item with a percent off or dollars off
the regular price), and competitors' prices for the identical or substantially similar item}.

As for claim 16, Reuhl et al. disclose a computer program embodied on a
computer readable medium, the computer program causing a programmable device to
perform processing for providing automated delivery of a response to a pricing inquiry,
said processing comprising:
    receiving an inquiry requesting a price of an item (col. 3, lines 41-48; col. 3, lines
5-11) {the system also contains a stored program-controlled application for pricing and
repricing product items responsive to market price changes on a product-by-product
and market-by-market basis. That is, as data records in the tables regarding system
company prices and competitor prices are updated, a pricing software program is
invoked which automatically reprices items in accordance with a predetermined pricing
standard or rules}; and an automated system and apparatus which provides a buyer at
the point of sale with price comparisons among competitors to ascertain the best price
available for a product or a substantially similar product};
    modifying the initial price based on application of various predetermined rules
(col. 4, lines 7-12) {the system receives competitor price data for items, compares the
competitors' prices with the active price, and automatically changes the active price in
accordance with certain rules depending on whether the competitor's price is an
advertised price, a nonadvertised price or a value-added price};
    determining whether or not the modified price is to be compared to a
target price (col. 11, lines 34-43); and
    providing a price quote that reflects a weighted price, the weighted price
being either the modified price or the target price (col. 11, lines 34-43) {the pricing
program 204, in general operation, selects the current active price of the product,
compares it with the lowest competitor's price in a specified market, calculates a new
user's price to be lower than the competitor's price, changes the ending cent in
accordance with a cent code that corresponds to market type, i.e., profit margin of the
product, compares the cent coded price with the competitor's price, calculates a new

active user price to be lower than or equal to the competitor's price, stores the new active user price in the ITEM PRICE table}.

Reuhl et al. do not disclose if the inquiry is governed by a contract, determining an initial price for the item in accordance with the contract; if the inquiry is governed by a market price program, determining an initial price for the item in accordance with the market price program; if the inquiry is for a requote, determining an initial price for the item equal to a previously quoted price; and if the inquiry is not governed by a contract or a market price program and is not for a requote, determining an initial price from a reference price table.

Peterson et al. disclose the price is preferably calculated based on a table uploaded to the information network by the vendor wherein the table includes a list of the customer ID's for the users authorized to conduct electronic commerce with the vendor, and a discount percentage associated with each customer ID for each product code; this enables the vendor to quote different prices to different customers, with the appropriate discounted price being displayed to the user based on the user's user ID given at log-on; and if no discount percentage is given, the displayed price will be list price (col. 24, lines 9-20). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the invention of Reuhl et al. to include the feature of Petersen et al. in order to provide price quotes to a variety of customer types.

As for claim 19, Reuhl et al disclose that said various predetermined rules include at least one of a set of business rules, a set of value added services rules, and a set of price channel conversion rules (col. 3, lines 61-66; col. 3, line 66 through col. 4, lines 6) {the database of the system includes indicia for each item sold, including a product identification number, e.g., a stock keeping unit or SKU, the market in which it is sold, the price, value added characteristics, e.g., special financing arrangements or premiums offered, and market type which relates to profit margin; and the pricing software defines an active price (i.e., the real-time current valid price) for every item; the active price is a function of a regular price (i.e., cost plus usual system user's markup), an advertised price (if the item is an advertised special), a sale price (if the item is a sale item with a percent off or dollars off the regular price), and competitors' prices for the identical or substantially similar item}.

As for claims 20 and 27, Reuhl et al. disclose providing automated delivery of a response to a pricing inquiry, wherein said set of business rules is comprised of filter criteria that include customer identifier, customer category, customer classification, geography, sales channel, contract, competition, target pricing, quantity, date, delivery schedule, part identifiers product type, product family, and value added requirements (col. 6, lines 29-44) {the pricing response is directed to having the lowest price for any particular product based on price comparisons on the same or a substantially similar product sold by competitors in a specific geographic market and the number of markets that can be accommodated by the system of the present invention is not limited; and here are five different geographic markets, however, the

system is suitably an enterprise-wide (i.e., a multi-market, multi-facility, e.g., store) system and price changes are directed on a market-by-market basis}.

As for claims 22 and 29, Reuhl et al. disclose providing automated delivery of a response to a pricing inquiry, wherein the weighted price is one of a highest price, lowest price, and an initially quoted price (col. 11, lines 21-24) {the buyer has the opportunity to view the displayed results which demonstrate that the system user has the lowest price in the market for the product of interest, i.e., the system user's price is lower or equal to the lowest competitor's price}.

As for claim 23, Reuhl et al. disclose a method for providing automated delivery of a response to a pricing inquiry comprising the steps of:
means for receiving an inquiry requesting a price of an item (col. 3, lines 5-11) {an automated system and apparatus which provides a buyer at the point of sale with price comparisons among competitors to ascertain the best price available for a product or a substantially similar product};
means for modifying the initial price based on application of various predetermined rules (col. 4, lines 7-12) {the system receives competitor price data for items, compares the competitors' prices with the active price, and automatically changes the active price in accordance with certain rules depending on whether the competitor's price is an advertised price, a nonadvertised price or a value-added price};
means for selectively comparing the modified price to a target price (col. 11, lines 34-43); and
means for providing a price quote that reflects a weighted price, the weighted price being either the modified price or the target price (col. 11, lines 34-43) {the pricing program 204, in general operation, selects the current active price of the product, compares it with the lowest competitor's price in a specified market, calculates a new user's price to be lower than the competitor's price, changes the ending cent in accordance with a cent code that corresponds to market type, i.e., profit margin of the product, compares the cent coded price with the competitor's price, calculates a new active user price to be lower than or equal to the competitor's price, stores the new active user price in the ITEM PRICE table}.
Reuhl et al. do not disclose if the inquiry is governed by a contract, determining an initial price for the item in accordance with the contract; if the inquiry is governed by a market price program, determining an initial price for the item in accordance with the market price program; if the inquiry is for a requote, determining an initial price for the item equal to a previously quoted price; and if the inquiry is not governed by a contract or a market price program and is not for a requote, determining an initial price from a reference price table.
Peterson et al. disclose the price is preferably calculated based on a table uploaded to the information network by the vendor wherein the table includes a list of the customer ID's for the users authorized to conduct electronic commerce with the vendor, and a discount percentage associated with each customer ID for each product code; this enables the vendor to quote different prices to different customers, with the

appropriate discounted price being displayed to the user based on the user's user ID given at log-on; and if no discount percentage is given, the displayed price will be list price (col. 24, lines 9-20). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the invention of Reuhl et al. to include the feature of Petersen et al. in order to provide price quotes to a variety of customer types.

As for claim 26, Reuhl et al. disclose a system for providing automated delivery of a response to a pricing inquiry wherein said various predetermined rules include at least one of a set of business rules, a set of value added services rules, and a set of price channel conversion rules (col. 4, lines 7-12) {in overall operation, the system receives competitor price data for items, compares the competitors' prices with the active price, and automatically changes the active price in accordance with certain rules depending on whether the competitor's price is an advertised price, a nonadvertised price or a value-added price}.

4.   Claims 6, 10, 21 and 28 are rejected under 35 U.S.C. 103(a) as being

unpatentable over Reuhl et al. in view of Carter (Patent Number 6,553,350).

As for claims 6, 21, and 28, Reuhl et al. do not disclose providing automated delivery of a response to a pricing inquiry, wherein said price channel conversion rules are applied where the inquiry is received from a distributor.
Carter discloses that for many enterprises pricing is typically performed on a customer by customer basis wherein for a particular product, each customer gets a price that is different from the price offered to other customers and the difference in price for a particular product is a function of numerous factors. The type of product (e.g., hardware, software, or a particular service), the size of the customer, the type of customer organization (e.g., a wholesaler, distributor, or value added reseller), and the customer's geographic location are only a few of many factors that are used to determine a price recommendation for a sales representative (col. 1, lines 37-51). Carter further disclose the invention sorts the various pricing adjustments applicable to a particular product offered to a particular purchasing group based on several criteria and after the sorting is accomplished the pricing adjustments are applied in sequence to arrive at a final price at which a particular product can be sold to a particular purchasing organization (col. 3, lines 59-65). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the invention of Reuhl et al. to include the feature of Carter in order to include pricing rules for for different types of customers.

As for claim 10, Reuhl et al. do not disclose a method wherein, said price channel conversion rules are one of distributor cost rules and distributor resale rules. Carter discloses that the invention can also account for any combination of purchasing

organizations, organizational groups, products, or product groups and arrive at a final offering price in an efficient manner. For example, all CPU's may be offered to all Resellers (Distributors) at a general discount of 5%. This means that the same discount would be applicable to Adam (a Reseller) when purchasing a 486/33 CPU (col. 9, line 66 through col. 10, lines 5). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the invention of Reuhl et al. to include the feature of Carter et al. in order to include pricing rules to a variety of customer types.

5.   Claim 15 is rejected under 35 U.S.C. 103(a) as being unpatentable over

Reuhl et al. in view of Carter in further view of Pool et al. (Patent Number

6,460,020).

        As for claim 15, Reuhl et al. does not disclose that the conversion factor is selected from at least one of the group consisting of a markup from an OEM price to a distributor resale factor and a conversion from a distributor resale to a distributor cost factor, wherein the conversion from the distributor resale to the distributor cost factor is dependent on distributor registration. Pool et al disclose that displayed with the price is a message indicating that the price displayed is limited to the vendor's factory, or one of his outlets, however the vendor may choose wherein the message will also indicate that the customer must request additional information to obtain the price for the product to be delivered to a destination of the customers choosing. It is crucial that the message clearly indicate to the customer that there is far more expense involved to obtaining the goods than merely the original price at the factory or the distributor of the vendor (col. 6, lines 36-50). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the invention of Reuhl et al. to include the feature of Pool et al. in order to provide a real price to a customer (Pool; col. 6, lines 50-51).

Conclusion

6.   Applicant's amendment necessitated the new ground(s) of rejection presented in

this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP

§ 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37

CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE

MONTHS from the mailing date of this action. In the event a first reply is filed within

TWO MONTHS of the mailing date of this final action and the advisory action is not

mailed until after the end of the THREE-MONTH shortened statutory period, then the

shortened statutory period will expire on the date the advisory action is mailed, and any

extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

the advisory action. In no event, however, will the statutory period for reply expire later

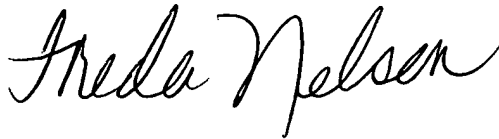than SIX MONTHS from the date of this final action.

7.   Any inquiry concerning this communication or earlier communications from the

examiner should be directed to Freda A. Nelson whose telephone number is (571) 272-

7076. The examiner can normally be reached on Monday - Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, John Hayes can be reached on 571-272-6708. The fax phone number for

the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the

Patent Application Information Retrieval (PAIR) system. Status information for

published applications may be obtained from either Private PAIR or Public PAIR.

Status information for unpublished applications is available through Private PAIR only.

For more information about the PAIR system, see http://pair-direct.uspto.gov. Should

you have questions on access to the Private PAIR system, contact the Electronic

Business Center (EBC) at 866-217-9197 (toll-free).

FAN 01/23/2006

JOHN W. HAYES
SUPERVISORY PATENT EXAMINER